

# **EXHIBIT 6**

# Average Wholesale Price Litigation

Class Action Information

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## Welcome to the AWP Class Action Website

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There are class action lawsuits pending in the U.S. District Court for the District of Massachusetts. The litigation is called *In re: Pharmaceutical Industry Average Wholesale Price Litigation*, Docket No. 01-CV-12257-PBS.

The lawsuits claim that certain drug companies intentionally reported false and inflated average wholesale prices ("AWP") for certain types of outpatient drugs. The AWP's are used to set the price that Medicare and consumers making Medicare Part B co-payments will pay for the drug. It also may be used to set the price paid for the drugs by Third-Party Payors. The lawsuits claim that as a result of Defendant's actions consumers making Medicare Part B co-payments and some Third Party Payors paid more for the drugs at issue than they should have. (For a more detailed description of what Plaintiffs say about the claims in the lawsuit, [click here](#)).

Defendants deny they did anything wrong. They say that AWP is an industry term of art and that everyone in the industry, including Medicare, understood that it did not reflect the acquisition cost of the drugs. They have other defenses that are explained more fully elsewhere on this website. (For a more detailed description of what Defendants say about the claims in the lawsuit, [click here](#)).

The Court has not decided who is right in the lawsuits yet. The Court has certified certain classes of consumers and TPPs. The Court has certified that a series of trials and hearings will determine the claims in these lawsuits. An initial trial including all Defendants related to claims by TPPs will begin in November 2006. The Court will hold a separate trial to determine the claims against each Defendant as they relate to Medicare Part B beneficiaries. The first trial is scheduled to begin March 5, 2007 at 9:00 a.m.

### If You Are a Medicare Part B Beneficiary or Heir of a Beneficiary Who Made, or is Obligated to Make a Co-Payment Through Medicare Part B For the Drugs,

**Blenoxane** (bleomycin sulfate)  
**Etopophos** (etoposide phosphate)  
**Procrit** (epoetin alfa)  
**Rubex** (doxorubicin hcl)  
**VePesid** (etoposide)

**Cytoxan** (cyclophosphamide)  
**Paraplatin** (carboplatin)  
**Remicade** (infliximab)  
**Taxol** (paclitaxel)  
**Zoladex** (goserelin acetate)

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### If You Are a Third-Party Payor Based In or With Beneficiaries In Massachusetts and You Made Reimbursements For

**Albuterol Sulfate**  
**Cytoxan** (cyclophosphamide)  
**Intron A** (interferon alfa-2b)  
**Perphenazine**  
**Proventil** (albuterol sulfate)  
**Rubex** (doxorubicin hcl)  
**Temodar** (temozolomide)  
**Zoladex** (goserelin acetate)

**Blenoxane** (bleomycin sulfate)  
**Etopophos** (etoposide phosphate)  
**Paraplatin** (carboplatin)  
**Procrit** (epoetin alfa)  
**Remicade** (infliximab)  
**Taxol** (paclitaxel)  
**VePesid** (etoposide)

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## If You Are a Third-Party Payor Based In or With Beneficiaries In Massachusetts and You Made Reimbursements For Any of the Following Drugs:

<b>Albuterol Sulfate</b>	<b>Blenoxane</b> (bleomycin sulfate)	<b>Cytoxan</b> (cyclophosphamide)
<b>Etopophos</b> (etoposide phosphate)	<b>Intron A</b> (interferon alpha)	<b>Paraplatin</b> (carboplatin)
<b>Perphenazine</b>	<b>Procrit</b> (epoetin alfa)	<b>Proventil</b> (albuterol sulfate)
<b>Remicade</b> (infliximab)	<b>Rubex</b> (doxorubicin hcl)	<b>Taxol</b> (paclitaxel)
<b>Temodar</b> (temozolomide)	<b>VePesid</b> (etoposide)	<b>Zoladex</b> (goserelin acetate)
	NDC Listing	

## These Class Action Lawsuits May Affect Your Rights.

There are class action lawsuits pending in the U.S. District Court for the District of Massachusetts. The litigation is called *In re: Pharmaceutical Industry Average Wholesale Price Litigation*, Docket No. 01-CV-12257-PBS.

### What is this Lawsuit About?

The lawsuits claim that certain drug companies intentionally reported false and inflated average wholesale prices ("AWP") for certain types of outpatient drugs. The reported AWP's may be used to set prescription drug prices that are

paid by insurers and other Third Party Payors ("TPPs"). The lawsuits ask the Court to award money damages to some TPPs who made reimbursements for the drugs. (For more about the Plaintiffs' claims [click here](#)). Defendants deny the allegations of the lawsuits. (For more on what Defendants say about the suits [click here](#)). The Court has not yet decided who is right in this litigation. A series of trials and hearings will determine the claims in these lawsuits. An initial trial including all Defendants will begin in November 2006.

### IMPORTANT DATES & DEADLINES

Request	Must be received by
Exclusion:	<b>October 1, 2006</b>
Initial Trial Begins:	<b>November 2006</b>

### Who is in the Classes?

A TPP is a member of the MediGap TPP Class if it made reimbursements for all or part of its insured's 20% co-payment under Medicare Part B for Covered Drugs anytime between January 1, 1991 and January 1, 2005 or

A TPP is a member of the Private Payor TPP Class if it reimbursed for Covered Drugs outside of Medicare Part B based on a contract that uses AWP as a reimbursement benchmark anytime between January 1, 1991 and January 1, 2006.

In order to be member of either the MediGap TPP Class or the Private Payor TPP Class, the reimbursements must have been for a beneficiary in Massachusetts or the Third Party Payor must have its principal place of business in Massachusetts.

## Summary of Your Rights and Choices

You May:

Remain in      *Stay in the lawsuits and wait for the result.*

**the  
Classes:** By doing nothing, you stay in the Classes and may share in any recovery, if there is one, but you give up the right to sue these Defendants yourself about the claims in these lawsuits. You will also be bound by the outcome of any trial, whether those results are favorable or unfavorable to the class.  
[More Information](#)

**Due Date:** Do Nothing

**Exclude  
Yourself:** ***Get out of the Classes.***

You can write and ask to get out of either or both of the Classes. If any money is awarded later in a trial or settlement with any of the four Defendants in the Classes, you will not get any payment, but you keep the right to sue those Defendants on your own about the claims in these lawsuits.  
[More Information](#)

**Due Date:** Received by October 1, 2006

**Appear in  
the  
Lawsuits:** ***Participate in the lawsuits on your own or through a lawyer.***

If you don't exclude yourself, you can appear and speak in the lawsuits on your own or through your own lawyer. (Class Counsel has been appointed to represent you.)  
[More Information](#)

## APPENDIX I

Company	NDC	Description
AstraZeneca	00310096036	Zoladex 3.6mg 1x1EA Depot
AstraZeneca	00310096130	Zoladex 10.8mg 1x1EA Depot
AstraZeneca	00310095130	Zoladex 10.8mg 1x1EA Depot
AstraZeneca	00310095036	Zoladex 3.6mg 1x1EA Depot
BMS Group	00015301026	Blenoxane INJ 15 UNIT VHA
BMS Group	00015301020	Blenoxane INJ 15 UNIT VL
BMS Group	00015306326	Blenoxane INJ 30 UNIT VHA
BMS Group	00015306301	Blenoxane INJ 30 UNIT VL
BMS Group	00015053910	Cytosan 100mg LYOPH W/CYT
BMS Group	00015054812	Cytosan 1g 6x50ml VHA+
BMS Group	00015054810	Cytosan 1gm LYOPH W/CYT0G
BMS Group	00015054610	Cytosan 200mg LYOPH W/CYT
BMS Group	00015054912	Cytosan 2g 6x100ml VHA+
BMS Group	00015054910	Cytosan 2gm LYOPH W/CYT0G
BMS Group	00015054710	Cytosan 500mg LYOPH W/CYT
BMS Group	00015050001	Cytosan for INJ 100mg
BMS Group	00015050041	Cytosan INJ 100mg
BMS Group	00015050641	Cytosan INJ 1x2gm VIAL
BMS Group	00015050241	Cytosan INJ 1x500mg VIAL
BMS Group	00015050141	Cytosan INJ 200mg
BMS Group	00015054712	Cytosan LYO 500mg VL VHA
BMS Group	00015054741	Cytosan LYOPH 500mg
BMS Group	00015053941	Cytosan Lyophilized 100mg
BMS Group	00015054841	Cytosan Lyophilized 1gm
BMS Group	00015054641	Cytosan Lyophilized 200mg
BMS Group	00015054941	Cytosan Lyophilized 2gm
BMS Group	00015050541	Cytosan PINJ 1x1g VIAL
BMS Group	00015050303	Cytosan Tablets 50mg
BMS Group	00015050302	Cytosan Tablets 50mg
BMS Group	00015050401	Cytosan Tabs 25mg
BMS Group	00015050301	Cytosan Tabs 50mg
BMS Group	00015050348	Cytosan Tabs 50mg
BMS Group	00015340420	Etopophos 100mg VIAL
BMS Group	00015321429	Paraplatin 10x15ml VHA+
BMS Group	00015321529	Paraplatin 10x45ml VHA+
BMS Group	00015321329	Paraplatin 10x5ml VHA+
BMS Group	00015321410	Paraplatin 150mg LYOPH CY
BMS Group	00015321430	Paraplatin 1x150mg LYO VL
BMS Group	00015321530	Paraplatin 1x450mg LYO VL
BMS Group	00015321510	Paraplatin 450mg VL W/CYT
BMS Group	00015321330	Paraplatin 50mg LYOPHILIZ
BMS Group	00015321310	Paraplatin 50mg W/CYTO
BMS Group	00015335322	Rubex 100mg LYOPHILIZED
BMS Group	00015335324	Rubex 100mg IMMUNEX LABEL
BMS Group	00015335124	Rubex 10mg IMMUNEX LABEL
BMS Group	00015335122	Rubex 10mg LYOPHILIZED
BMS Group	00015335224	Rubex 50mg IMMUNEX LABEL
BMS Group	00015335222	Rubex 50mg LYOPHILIZED

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Company	NDC	Description
BMS Group	00015347630	Taxol 100mg INJ MULTIDOSE
BMS Group	00015347627	Taxol 100mg SEM-SYN VIAL
BMS Group	00015347620	Taxol 100mg/16.7ml VHA+ L
BMS Group	00015347911	Taxol 300mg/50ml VIAL
BMS Group	00015345620	Taxol 30mg CONC FOR INJ
BMS Group	00015347530	Taxol 30mg INJ MULTIDOSE
BMS Group	00015347527	Taxol 30mg SEM-SYN VIAL
BMS Group	00015347520	Taxol 30mg/5ml VHA+ LABEL
BMS Group	00015309510	VePesid 100mg VIAL W/CYTO
BMS Group	00015309530	VePesid 100mg VL W/O CYTO
BMS Group	00015306224	VePesid 1g 50ml VIAL VHA+
BMS Group	00015306220	VePesid 1gm/50ml
BMS Group	00015306120	VePesid 500mg
BMS Group	00015306124	VePesid 500mg 25ml VL VHA
BMS Group	00015309145	VePesid 50mg CAPSULES
BMS Group	00015309520	VePesid INJ 100mg/5ml
BMS Group	00015308420	VePesid INJ 150mg/7.5ml
Johnson & Johnson Group	57894003001	C168J Remicade 1PCK
Johnson & Johnson Group	59676031201	Procrit 10,000 U/ml
Johnson & Johnson Group	59676031002	Procrit 10,000 U
Johnson & Johnson Group	59676031001	Procrit 10,000 U/ml
Johnson & Johnson Group	00062740103	Procrit 10,000 U/ml AMG
Johnson & Johnson Group	59676032001	Procrit 20,000 U/ml
Johnson & Johnson Group	59676030202	Procrit 2,000 U/
Johnson & Johnson Group	59676030201	Procrit 2,000 U/ml 6
Johnson & Johnson Group	00062740201	Procrit 2,000 U/ml AMG
Johnson & Johnson Group	59676030302	Procrit 3,000 U/
Johnson & Johnson Group	59676030301	Procrit 3,000 U/ml 6
Johnson & Johnson Group	00062740503	Procrit 3,000 U/ml INST
Johnson & Johnson Group	00062740501	Procrit 3,000 U/ml AMG
Johnson & Johnson Group	59676030402	Procrit 4,000 U/
Johnson & Johnson Group	59676030401	Procrit 4,000 U/ml 6
Johnson & Johnson Group	00062740004	Procrit 4,000 U/ml INST
Johnson & Johnson Group	59676034001	Procrit 40,000 U/ml
Johnson & Johnson Group	00062740003	Procrit 4,000 U/ml AMG
Schering Plough Group	59930151504	Albuterol Inhalation Solution
Schering Plough Group	59930164702	Albuterol Inhalation Solution
Schering Plough Group	59930150006	Albuterol Sulfate Inhal. Sol.
Schering Plough Group	59930150008	Albuterol Sulfate Inhal. Sol.
Schering Plough Group	59930151701	Albuterol Sulfate Solution
Schering Plough Group	59930151702	Albuterol Sulfate Solution
Schering Plough Group	59930155020	Albuterol Sulfate Solution
Schering Plough Group	00085123501	Intron A FOR INJ MULTIDOSE PEN
Schering Plough Group	00085124201	Intron A FOR INJ MULTIDOSE PEN
Schering Plough Group	00085125401	Intron A FOR INJ MULTIDOSE PEN
Schering Plough Group	00085116801	Intron A INJ 18MIU HSA FREE
Schering Plough Group	00085113301	Intron A INJ 25MIU HSA FREE

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Company	NDC	Description
Schering Plough Group	00085118401	Intron A INJ 3MIU HSA FREE
Schering Plough Group	00085118402	Intron A INJ 3MIU HSA FREE
Schering Plough Group	00085119101	Intron A INJ 5MIU HSA FREE
Schering Plough Group	00085119102	Intron A INJ 5MIU HSA FREE
Schering Plough Group	00085117901	Intron A INJ PAK10MIU HSA FREE
Schering Plough Group	00085117902	Intron A INJ PAK10MIU HSA FREE
Schering Plough Group	00085057102	Intron A INJECTABLE 10MILLN IU
Schering Plough Group	00085057106	Intron A INJECTABLE 10MILLN IU
Schering Plough Group	00085111001	Intron A INJECTABLE 18MILLN IU
Schering Plough Group	00085028502	Intron A INJECTABLE 25MILLN IU
Schering Plough Group	00085064703	Intron A INJECTABLE 3MILLN IU
Schering Plough Group	00085064704	Intron A INJECTABLE 3MILLN IU
Schering Plough Group	00085064705	Intron A INJECTABLE 3MILLN IU
Schering Plough Group	00085012002	Intron A INJECTABLE 5 MILLN IU
Schering Plough Group	00085012003	Intron A INJECTABLE 5 MILLN IU
Schering Plough Group	00085012004	Intron A INJECTABLE 5 MILLN IU
Schering Plough Group	00085012005	Intron A INJECTABLE 5 MILLN IU
Schering Plough Group	00085053901	Intron A INJECTABLE 50MILLN IU
Schering Plough Group	00085068901	Intron A INJECTION 18 MIU
Schering Plough Group	00085092301	Intron A SOL FOR INJ 10 MILLI
Schering Plough Group	00085076901	Intron A SOL. FOR INJ. 25MILLN
Schering Plough Group	00085095301	Intron A SOLUTION 18MIU 3ml
Schering Plough Group	59930160001	Perphenazine
Schering Plough Group	59930160002	Perphenazine
Schering Plough Group	59930161001	Perphenazine 16mg
Schering Plough Group	59930160501	Perphenazine 8mg
Schering Plough Group	59930160502	Perphenazine 8mg
Schering Plough Group	59930160301	Perphenazine TABLETS
Schering Plough Group	59930160302	Perphenazine TABLETS
Schering Plough Group	00085133601	Proventil INHALATION SOLUTION
Schering Plough Group	00085020901	Proventil SOLUTION .083mg/ml
Schering Plough Group	00085180601	Proventil SOLUTION .083mg/ml
Schering Plough Group	00085020802	Proventil SOLUTION 5mg/ml
Schering Plough Group	00085020852	Proventil SOLUTION 5mg/ml
Schering Plough Group	00085125901	Temodar 100mg
Schering Plough Group	00085125902	Temodar 100mg
Schering Plough Group	00085124401	Temodar 20mg
Schering Plough Group	00085124402	Temodar 20mg
Schering Plough Group	00085125201	Temodar 250mg
Schering Plough Group	00085125202	Temodar 250mg
Schering Plough Group	00085124801	Temodar 5mg
Schering Plough Group	00085124802	Temodar 5mg



# Average Wholesale Price Litigation

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## Court Documents

- List of Drugs, Manufacturers, Drug Dosages and NDCs
- Complaint
- Class Certification Order (Jan 30, 2006)
- Answers to Complaint

Some documents may require the Adobe Acrobat Reader to be installed on your computer. You can download it [here](#) for free.



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## Frequently Asked Questions

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10. Who is in the Classes?
11. What are the Covered Drugs?
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13. How do I remain in either or both of the Classes?
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15. How does a TPP exclude itself from either or both of the Classes?
16. What happens if a TPP excludes itself, can it get any money or benefits from these lawsuits?
17. Can a TPP Class Member appear or speak in these lawsuits?
18. How does a TPP Class Member appear in these lawsuits?
19. What happens if a TPP Class Member doesn't do anything at all?
20. Do TPP Class Members have a lawyer in these lawsuits?
21. Can you elaborate on who pays Class Counsel and how much will they be paid?
22. Should a TPP Class Member get its own lawyer?
23. Are more details and information available?
24. How will I be notified about the outcome of the trials?

## Basic Information

### 1. Why did I get the Notice?

Lawsuits have been filed against several drug companies. The Court has said that the lawsuits can go forward as class actions on behalf of consumers and TPPs who paid or reimbursed for one or more of the Covered Drugs, which are listed in Appendix I at the end of the Notice.

You received the Notice because you are a TPP that may have made reimbursements for Covered Drugs between January 1, 1991 and January 1, 2005 or between January 1, 1991 and January 30, 2006. If so, these lawsuits may affect you. Each TPP Class Member has legal rights and choices to make before the Court holds a series of trials to decide whether the claims being made with respect to the drug companies are true. The Court has not yet decided who is right in this litigation. At this time the court has certified that a series of trials and hearings will determine

the claims in these lawsuits. An initial trial including all of the Defendants will begin in November 2006. **Each TPP Class Member must make a choice whether to remain in the Classes before October 1, 2006.**

The Notice explains:

- What these lawsuits are about, and why they are class action lawsuits.
- What these lawsuits claim and what the drug companies say about the claims.
- Who is affected by the lawsuits.
- What TPP's legal rights and choices are.
- Who represents TPP Class Members in these lawsuits.
- How and by when each TPP Class Member needs to act.

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## 2. What are these lawsuits about?

Plaintiffs allege Defendant drug companies either report the average wholesale price ("AWP") of each drug they make to trade publications or provide those publications with information from which the publications calculate an AWP for each of Defendants' drugs. The published AWP of a drug may be used to set the price that consumers making co-payments, Medicare and insurance companies will pay for the drug. The lawsuits claim that Medicare, private insurers, and consumers paid more than they should have paid for the Covered Drugs because drug companies intentionally reported false and inflated AWPs on these drugs.

The Court in charge of the lawsuits is the United States District Court for the District of Massachusetts. The litigation is called *In re: Pharmaceutical Industry Average Wholesale Price Litigation*, Docket No. 01-CV-12257-PBS. The people who sued are called the Plaintiffs. The drug companies they sued are called the Defendants.

The lawsuits include 42 Defendants. The Defendants deny the allegations in the lawsuits. The Court has not yet decided who is right in this litigation. At this time the court has certified that a series of trials and hearings will determine the claims in these lawsuits. An initial trial including all of the Defendants listed below will begin in November 2006:

- AstraZeneca (AstraZeneca Pharmaceuticals L.P.);
- The Bristol-Myers Squibb Group (which includes: Bristol-Myers Squibb Co.; Oncology Therapeutics Network Corp.; and Apothecon, Inc.);
- The Johnson & Johnson Group (which includes: Johnson & Johnson; Centocor, Inc.; Ortho Biotech Products, L.P.; and
- The Schering Plough Group (which includes Schering-Plough Corp. and Warrick Pharmaceuticals Corp.).

Whenever you see the word "Defendants" in this Notice, it includes only the companies listed above: AstraZeneca, Bristol-Myers Squibb Group, Johnson & Johnson Group and the Schering Plough Group.

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## 3. Why are these class actions?

In a class action lawsuit, one or more people or entities called "class representatives" sue on behalf of others who have similar claims. The people and entities together are a "class" or "class members." The Court must determine if it will allow the lawsuit to proceed as a class action. If it does, a trial of the claims then decides the lawsuit for everyone in the class. The Court in these lawsuits decided they could be class actions.

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## 4. Who qualifies as a Third-Party Payor?

A TPP is an entity that is:

(a) A party to a contract, issuer of a policy, or sponsor of a plan, *and*

(b) At risk, under such contract, policy, or plan, to pay or reimburse all or part of the cost of prescription drugs dispensed to covered natural persons.

TPPs include insurance companies, union health and welfare benefit plans and self-insured employers. Entities with self-funded plans that contract with a health insurance company or other entity to serve as a third-party claims administrator to administer their prescription drug benefits can qualify as TPPs. Third-party claim administrators may also file a claim on behalf of a self-funded plan if the third-party claim administrator has legal authority and authorization from the self-funded plan to do so.

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## The Claims in these Lawsuits

### 5. What do the Plaintiffs claim?

The Plaintiffs claim that the Defendants violated various state consumer protection laws because they intentionally provided false and inflated AWP's on certain types of outpatient drugs, including the Covered Drugs. The lawsuits also claim that the Defendants intentionally reported inflated AWP's with the knowledge that Medicare Part B and private insurers rely on reported AWP's to determine the prices they will reimburse doctors for those drugs. The lawsuits say that as a result of the inflated AWP's, TPPs who reimburse part or all of their insured's co-payment under Medicare Part B or who used AWP as a pricing standard for reimbursement for those drugs outside of Medicare Part B, reimbursed more than they should have. The lawsuits ask the Court to award money damages to those TPPs.

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### 6. What do the Defendants say about the claims?

The Defendants deny the factual allegations being made; contend that the lawsuits and damages are precluded under the law; contend that the alleged conduct, if proved, does not violate the Massachusetts consumer protection law, and that many class members will not be able to establish elements of that law, or prove they paid payments for the subject drugs.

In addition, Bristol-Myers Squibb points out that it does not report AWP's; it reports list prices at which a substantial percentage of its sales are made. The Johnson & Johnson Group says that Plaintiffs did not calculate Johnson & Johnson's drug prices correctly and, when these errors are corrected, it is obvious that the published prices for Johnson & Johnson drugs were not inflated. The Johnson & Johnson Group points out that it did not give doctors discounts on the drug Remicade, and the small discounts it gave to doctors on the drug Procrit were disclosed. The Johnson & Johnson Group says its drugs are less expensive than competing therapies, so Class Members who reimbursed for Johnson & Johnson's products saved money. The Schering Plough Group notes that the prices they report comport with standard industry practice.

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### 7. Has the Court decided who is right in the lawsuits?

No. The Court hasn't decided who is right in these lawsuits yet. Much more must occur before the Court holds a trial, including notifying Class Members. By deciding now that these lawsuits can continue as a class action, the Court isn't saying who will win.

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**8. Are there any benefits or money available now?**

No money or benefits are available now because the Court hasn't decided whether the Defendants did anything wrong. There could be money or benefits in the future if one or more Defendants settle before a trial, or if the Court decides in favor of the Classes after a trial. There's no guarantee that any money for Class Members will ever be obtained from the Defendants.

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## **The Classes**

**9. How many Classes are there?**

The Court has ruled that there are two different Classes for TPPs who reimbursed for Covered Drugs: a MediGap TPP Class, and a Private Payor TPP Class. A TPP could be a member of one or both Classes.

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**10. Who is in the Classes?**

A TPP is a member of the MediGap TPP Class if it made reimbursements for all or part of its insured's 20% co-payment under Medicare Part B for Covered Drugs anytime between January 1, 1991 and January 1, 2005 **or**

A TPP is a member of the Private Payor TPP Class if it reimbursed for Covered Drugs outside of Medicare Part B based on a contract that uses AWP as a reimbursement benchmark anytime between January 1, 1991 and January 1, 2006.

In order to be member of either the MediGap TPP Class or the Private Payor TPP Class, the reimbursements must have been for a beneficiary in Massachusetts or the Third Party Payor must have its principal place of business in Massachusetts.

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**11. What are the Covered Drugs?**

The Covered Drugs are: **Albuterol Sulfate**, **Blenoxane** (bleomycin sulfate), **Cytosan** (cyclophosphamide), **Etopophos** (etoposide phosphate), **Intron A** (interferon alpha), **Paraplatin** (carboplatin), **Perphenazine**, **Procrit** (epoetin alfa), **Proventil** (albuterol sulfate), **Remicade** (infliximab), **Rubex** (doxorubicin hcl), **Taxol** (paclitaxel), **Temodar** (temozolomide) **VePesid** (etoposide) and **Zoladex** (goserelin acetate)

You can find a complete list of the Covered Drugs, by Defendant drug manufacturer, drug name, and NDC code, in Appendix I to the Notice or [click here](#) to view the list in PDF format.

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**12. What does it mean if I'm a member of either or both of the Classes?**

If a TPP is a member of either of the Classes listed in Question 9 and does not exclude itself, it won't be able to sue the Defendants again for the claims in these lawsuits if the Court, after a trial, decides Defendants did nothing wrong. But if there is an award of money after a trial or a settlement with any of the remaining Defendants, a TPP that does not exclude itself will be able to make a claim for a share of that money.

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## **Your Rights As A Member Of The Classes**

### **13. How do I remain in either or both of the Classes?**

A TPP is automatically a member of either or both of the Classes if it fits the Class Definitions as outlined in Question 10. At this time, a TPP does not have to do anything to remain in either or both of the Classes. Each TPP will be notified if there is a settlement with any of the Defendants or if the Court determines that any of the Defendants are liable for damages as a result of the trials.

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### **14. Can I get out of these lawsuits and the Classes?**

If a TPP is a member of either or both of the Classes, and it wants to keep the right to sue Defendants AstraZeneca, Bristol-Myers Squibb Group, Johnson & Johnson Group, or Schering Plough Group about the same claims on its own (and at its own expense), it must take steps to get out of the either or both of the Classes. This is called excluding yourself.

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### **15. How does a TPP exclude itself from either or both of the Classes?**

To exclude itself from either or both of the Classes, a TPP must send a letter signed by an authorized representative that includes all of the following:

- The company name, address, and telephone number, and the name of its authorized representative;
- The name and number of the litigation: *In re: Pharmaceutical Industry Average Wholesale Price Litigation*, Docket No. 01-CV-12257-PBS;
- If a TPP has hired its own lawyer, the name, address, and telephone number of that lawyer;
- A statement that the TPP elects to be excluded from the either the MediGap TPP Class or the Private Payor TPP Class, or both Classes; and
- A statement explaining from which Defendant Class or Classes the TPP wishes to be excluded.

All exclusion letters must be mailed first class, **received by October 1, 2006**, to:

AWP Litigation Administrator  
c/o Complete Claim Solutions, LLC  
P.O. Box 24654  
West Palm Beach, FL 33416

Please remember that a Class Member can't exclude itself by phone or by sending an email.

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### **16. What happens if a TPP excludes itself, can it get any money or benefits from these lawsuits?**

If a TPP excludes itself from either or both of the Classes, it will not get money or benefits from the Class(es) if any are obtained from a settlement or trial of the lawsuits involving the Defendants. If a TPP excludes itself, it is no longer part of the Classes, and nothing that happens in the lawsuits affects it. But a TPP that properly excludes itself can sue or be part of a different lawsuit against the Defendants about the claims in this case.

If you do not exclude yourself, you are bound by the result in the lawsuits. Thus, if Defendants win, your claim will be extinguished, Defendants claim that the persons and entities representing

your interests do not have a valid claim and if that is correct, your claim will be extinguished unless you exclude yourself.

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**17. Can a TPP Class Member appear or speak in these lawsuits?**

As long as it doesn't exclude itself, a TPP Class Member can (but does not have to) participate and speak for itself in these lawsuits through its own lawyer. This is called making an appearance. Remember that the TPP Class Member may have to pay for the lawyer itself. If a TPP Class Member appears in these lawsuits, it is still a Class Member and can share in any benefits the Classes might receive as a result of settlements or trials.

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**18. How does a TPP Class Member appear in these lawsuits?**

If a TPP Class Member wants its own lawyer instead of Class Counsel to participate or speak for it in these lawsuits, its lawyer must give the Court a paper that is called a Notice of Appearance. The Notice of Appearance should include the name and number of the litigation, the civil action number and state that it wishes to enter an appearance in these lawsuits.

The Notice of Appearance must be filed with the Court at the following address:

Clerk of Court  
John Joseph Moakley U.S. Courthouse  
1 Courthouse Way, Suite 2300  
Boston, Massachusetts 02210

The Notice of Appearance must be filed using the following Civil Action Number:

01-CV-12257-PBS

A Notice of Appearance should be filed with the Court before the series of trials of each Defendant in these lawsuits begin. The Court has not yet decided who is right in this litigation and will conduct a trial of the claims against each Defendant as they relate to TPPs beginning in November 2006.

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**If You Do Nothing**

**19. What happens if a TPP Class Member doesn't do anything at all?**

If a TPP does nothing, it stays in one or more of the Classes. As a member of one or more Class, it will be bound by the results of one or more trials, whether those results are favorable or unfavorable to the Class, and the TPP will not be able to sue any Defendant(s) on its own. Depending on the outcome of the Class trial or trials or other rulings by the Court, in the future Class Members may be asked to provide information regarding the drugs they paid for in order to claim a portion of any class recovery. You will receive further instructions at that time explaining what information you are required to furnish and where and when to send it if there is a recovery or settlement. There is no recovery or settlement at this time.

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**The Lawyers Representing TPP Class Members**

**20. Do TPP Class Members have a lawyer in these lawsuits?**

Yes. The Court has appointed the following law firms to represent TPP Class Members:

<p><b>Hagens Berman Sobol Shapiro LLP</b>  <a href="http://www.hagens-berman.com">www.hagens-berman.com</a>                      1301 Fifth Avenue, Suite 2900                      Seattle, WA 98101</p> <p><i>and</i></p> <p>One Main Street, 4th Floor                      Cambridge, MA 02142</p>	<p><b>Spector Roseman &amp; Kodroff, PC</b>  <a href="http://www.srk-law.com">www.srk-law.com</a>                      1818 Market Street, Suite 2500                      Philadelphia, PA 19103</p> <p><b>Wexler Toriseva Wallace LLP</b>  <a href="http://www.wtlaw.us">www.wtlaw.us</a>                      One North LaSalle St., Suite 2000                      Chicago, IL 60602</p>
<p><b>Mark H. Edelson</b>                      Edelson &amp; Associates LLC                      45 West Court Street                      Doylestown, PA 18901</p>	<p><b>Kline &amp; Specter, PC</b>  <a href="http://www.klinespecter.com">www.klinespecter.com</a>                      The Nineteenth Floor                      1525 Locust Street                      Philadelphia, PA 19102</p>

These lawyers are called Class Counsel. Class Members won't be charged personally for these lawyers, but they will ask the Court to award them a fee to be paid out of any recovery. More information about Class Counsel and their experience is available at the Web sites listed above.

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**21. Can you elaborate on who pays Class Counsel and how much will they be paid?**

If Class Counsel obtains money or benefits for the Classes through a settlement or a successful trial, they will ask the Court for payment of attorneys' fees and costs out of the total amount of money and benefits obtained. The Court must approve the amount of attorneys' fees and costs. If Class Counsel doesn't obtain any money or benefits for the Classes, they won't receive or ask to receive any attorneys' fees or reimbursement of expenses.

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**22. Should a TPP Class Member get its own lawyer?**

A TPP Class Member doesn't need to hire its own lawyer, but, if a TPP wants its own lawyer to speak for it or appear in Court, it must file a Notice of Appearance (see Question 18 to find out how to submit a Notice of Appearance). If a Class Member hires a lawyer to appear for it in the lawsuits, it will have to make its own arrangement for that lawyer's compensation.

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## Getting More Information

**23. Are more details and information available?**

The Notice is just a summary of the lawsuits. More details are in the Complaint filed by Class Counsel and the other legal documents that have been filed with the Court in these lawsuits. Anyone can look at and copy these legal documents at any time during regular office hours at the Office of the Clerk of Court, John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Suite 2300, Boston, Massachusetts 02210. Copies of some of the important documents, like the Complaint, are also available at the links on the left.

In addition, if you have any questions about the lawsuits or the Notice, you may:



- Call toll free 1-800-419-5391 (hearing impaired call 1-561-253-7732)
- Write to: AWP Litigation Administrator, c/o Complete Claim Solutions, LLC, P.O. Box 24654, West Palm Beach, FL 33416.

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**24. How will I be notified about the outcome of the trials?**

Information about the trials will be posted on this Web site as appropriate. You may also register on this Web site or by mail to get notification of the outcome of the litigation and other significant occurrences associated with these cases. To register by mail send a letter to the AWP Litigation Administrator at the address in Question 23. To register on this Web site, go to the "Register to Receive Email Updates" at the link on the left.

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## Register to Receive Email Updates

\* = Required fields

### Registration

First Name\*:

Last Name\*:

Title:

Organization\*:

Address Line 1:

Address Line 2:

City:

State/Province:

ZIP/Postal Code:

Country:

Enter your email address in both boxes below:

Email\*:

Confirm Email\*:

Cancel

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## Contact Information

AWP Litigation Administrator  
c/o Complete Claim Solutions, LLC  
PO Box 24654  
West Palm Beach, FL 33416

[AWPInfo@completeclaimsolutions.com](mailto:AWPInfo@completeclaimsolutions.com)

If you would like to speak with the Administrator's  
Office, please call toll-free:  
1-800-419-5391

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## If You Are a Medicare Part B Beneficiary or Heir of a Beneficiary Made, or is Obligated to Make a Co-Payment Through Medicare For the Drugs:

<b>Blenoxane</b> (bleomycin sulfate)	<b>Cytotoxan</b> (cyclophosphamide)	<b>Etopophos</b> (etoposide)
<b>Paraplatin</b> (carboplatin)	<b>Procrit</b> (epoetin alfa)	<b>Remicade</b> (infliximab)
<b>Rubex</b> (doxorubicin hcl)	<b>Taxol</b> (paclitaxel)	<b>VePesid</b> (etoposide)
	<b>Zoladex</b> (goserelin acetate)	

## These Class Action Lawsuits May Affect Your Rights.

There are class action lawsuits pending in the U.S. District Court for the District of Massachusetts called *In re: Pharmaceutical Industry Average Wholesale Price Litigation*, Docket No. 01-CV-12257

### What is this Lawsuit About?

Plaintiffs allege that Defendant drug companies either reported the average wholesale price ("AWP") of each drug they make to trade publications or provided those publications with information from which the publications calculate an AWP for each of Defendants' drugs. The published AWP of a drug is used to set the price that consumers making Medicare Part B co-payments and Medicare will pay for the drug. The lawsuit claims that Medicare and consumers making Medicare Part B co-payments paid more than they should have paid for the Covered Drugs (See a list of the Covered Drugs) because drug companies intentionally reported false and misleading information concerning these drugs. For more about the Plaintiffs' claims click here. Defendants deny the allegations. For more on what Defendants say about the suits click here.

### IMPORTANT DATES & DEADLINES

Request for Exclusion:	Must be postmarked by <b>February 19, 2007</b>
Initial Trial Begins:	<b>March 5, 2007 at 9:00 AM</b>

The Court in charge of the lawsuit is the United States District Court for the District of Massachusetts. The people who sued are called the Plaintiffs. The drug companies they sued are called the Defendants.

The lawsuit includes 42 Defendants. At this time, the Court has certified separate Classes of people making Medicare Part B co-payments for Covered Drugs manufactured by the Defendants listed below. Each Defendant will also take place in the order listed below:

- AstraZeneca (AstraZeneca Pharmaceuticals L.P.),
- Bristol-Myers Squibb Group (which includes: Bristol-Myers Squibb Co.; Oncology Therapeutics Network Corp.; and Apothecon, Inc.), and
- Johnson & Johnson Group (which includes: Johnson & Johnson; Centocor, Inc.; and Ortho Biotech Products, L.P.).

The "Defendants" are these three companies: AstraZeneca, Bristol-Myers Squibb Group, and Johnson Group.

### Am I a Member of one or more of the Classes?

You're a member of one or more of the Classes and part of this lawsuit if you are a resident of the U.S. (except Alabama, Alaska, Georgia, Iowa, Kentucky, Louisiana, Mississippi, Montana or North Carolina) between January 1, 1991 and January 1, 2004, you paid (or are currently obligated to pay) under Medicare Part B for any of the Covered Drugs [see list below] that were manufactured by the Defendants. You are also a member of one or more of the Classes if you are an heir or estate made such a co-payment under Medicare Part B for any of the Covered Drugs. The Classes involved in each class are as follows:

<b>Defendant Classes</b>	<b>Subject Drug(s)</b>
AstraZeneca Class	<b>Zoladex</b> (goserelin acetate)
Bristol-Myers Squibb Class	<b>Blenoxane</b> (bleomycin sulfate) <b>Cytoxan</b> (cyclophosphamide) <b>Etopophos</b> (etoposide phosphate) <b>Paraplatin</b> (carboplatin) <b>Rubex</b> (doxorubicin hcl) <b>Taxol</b> (paclitaxel) <b>VePesid</b> (etoposide)
Johnson & Johnson Class	<b>Remicade</b> (infliximab) <b>Procrit</b> (epoetin alfa)

You are **not** a member of any of the Classes if you resided in Alabama, Alaska, Georgia, Louisiana, Mississippi, Montana or Virginia at the time you made the Medicare Part B co-payment. We have excluded persons residing in these states from the Classes because the consumer protection laws in these states don't allow class actions.

You are also **not** part of one or more of the Classes if:

(a) You were fully reimbursed for the co-payment you made (for example, your Medicare or other private insurer reimbursed you the full amount); **or**

(b) Your co-payment was a flat amount instead of a percentage of the total charge (for example, your MediGap or other private insurer paid for all of the co-payment except for a flat amount such as \$10 or \$20 that you had to pay). If your co-payment is a set dollar amount and it differs with the price of the drug, then your co-payment is a flat co-payment and not a percentage co-payment and you are not a member of one or more of the Classes.

## Summary of Your Rights and Choices

### You May:

**Remain in the Classes:** *Stay in the lawsuit and wait for the result.*

By doing nothing, you stay in the Classes and may share in any recovery if one is awarded, but you give up the right to sue these Defendants yourself about the claims in the lawsuit. You will also be bound by the outcome of any trial.  
[More Information](#)

**Due Date:** Do Nothing

**Exclude Yourself:** *Get out of the Classes.*

You can write and ask to get out of either or both of the Classes. If any money is awarded later in a trial or settlement with any of the three Defendants in the Classes, you will not get any payment, but you keep the right to sue those Defendants on your own about the claims in the lawsuit.  
[More Information](#)

**Due Date:** Postmarked by February 19, 2007

**Appear in the Lawsuit:** *Participate in the lawsuit on your own or through a lawyer.*

If you don't exclude yourself, you can appear and speak in the lawsuit on your own or through your own lawyer. (Class Counsel has been appointed to represent you.)  
[More Information](#)

**Must be  
postmarked by  
February 19, 2007**

*In re Pharmaceutical Industry Average Wholesale Price Litigation*  
Docket No. 01-CV-1225747-PBS

For Official Use Only

## **EXCLUSION FORM**

**Only Complete this Form if You Do NOT Want to be Included  
in One or More of the Classes**

***By Completing This Form You Are Excluding Yourself From One or More of  
The Classes and Nothing That Happens in the Class(es) You Check Below  
Will Affect You. That Means You Will Not Be Able To Participate in Any  
Benefits Obtained By The Class(es), and It Also Means You Will Not Be  
Bound By The Outcome Of Any Trials.***

Please check the box(es) indicating whether you are a:

☐ *Medicare Part B beneficiary* ☐ *Legal Heir to Medicare Part B beneficiary*

Please check the box(es) indicating which of the Classes you wish to exclude yourself from:

- ☐ *All Classes: (All Drugs)*
- ☐ *AstraZeneca Class: Zoladex (goserelin acetate)*
- ☐ *Bristol-Myers Squibb Class: Blenoxane (bleomycin sulfate), Cytosan (cyclophosphamide), Etopophos  
(etoposide phosphate), Paraplatin (carboplatin), Rubex (doxorubicin hcl), Taxol (paclitaxel), VePesid  
(etoposide)*
- ☐ *Johnson & Johnson Class: Remicade (infliximab), Procrit (epoetin alfa)*

I would like to be excluded from the Class(es) indicated above. I understand that by doing so I am excluding myself from one or more of the Classes and nothing that happens in the Classes will affect me. I understand that I will not be able to participate in any benefits obtained by the Classes and that I will not be bound by the outcome of any trials.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip code

### **Mail To:**

AWP Litigation Administrator  
c/o Complete Claim Solutions, LLC  
P.O. Box 24654  
West Palm Beach, FL 33416  
Toll-Free (800) 419-5391

***MUST BE POSTMARKED BY FEBRUARY 19, 2007***

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- Class Certification Order (Jan 30, 2006)
- Answers to Complaint

Some documents may require the Adobe Acrobat Reader to be installed on your computer. You can download it [here](#) for free.



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## Frequently Asked Questions - Consumer

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3. What do the Plaintiffs claim?
4. What do the Defendants say about the claims?
5. Has the Court decided who is right in these lawsuits?
6. Am I a Member of one or more of the Classes?
7. How do I know if my co-payment was under Medicare Part B?
8. How can I tell if the drug I took is included as a Covered Drug?
9. Can I get out of these lawsuits and the Classes?
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11. What happens if I exclude myself from these lawsuits?
12. Can I appear or speak in these lawsuits?
13. How do I appear in these lawsuits?
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15. Do I have a lawyer in these lawsuits?
16. Can you elaborate on who pays the lawyers and how much will they be paid?
17. Should I get my own lawyer?
18. Are more details and information available?
19. How will I be notified about the outcome of the trials?

### 1. What are these lawsuits about?

Plaintiffs allege that Defendant drug companies either reported the average wholesale price ("AWP") of each drug they make to trade publications or provided those publications with information from which the publications calculate an AWP for each of Defendants' drugs. The published AWP of a drug is used to set the price that consumers making Medicare Part B co-payments and Medicare will pay for the drug. The lawsuits claim that Medicare and consumers making Medicare Part B co-payments paid more than they should have paid for the Covered Drugs [go to question #6 on page 3 for a list of the Covered Drugs] because drug companies intentionally reported false and inflated AWP's concerning these drugs.

The Court in charge of the lawsuits is the United States District Court for the District of Massachusetts. The litigation is called *In re: Pharmaceutical Industry Average Wholesale Price Litigation*, Docket No. 01-CV-12257-PBS. The people who sued are called the Plaintiffs. The drug companies they sued are called the Defendants.

The lawsuits include 42 Defendants. At this time, the Court has certified separate Classes of people who made a Medicare Part B co-payments for Covered Drugs [go to question #6 below for a list of the Covered Drugs] manufactured by the Defendants listed below. The trials for each Defendant will also take place in the order listed below:

- AstraZeneca (AstraZeneca Pharmaceuticals L.P.),
- Bristol-Myers Squibb Group (which includes: Bristol-Myers Squibb Co.; Oncology Therapeutics Network Corp.; and Apoteco, Inc.), and
- Johnson & Johnson Group (which includes: Johnson & Johnson; Centocor, Inc.; and



Ortho Biotech Products, L.P.).

The "Defendants" are these three companies: AstraZeneca, Bristol-Myers Squibb Group, and the Johnson & Johnson Group.

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## **2. Why is this a class action?**

In a class action lawsuit, one or more people called "class representatives" sue on behalf of people who have similar claims. The people together are a "class" or "class members." The Court must determine if it will allow the lawsuit to proceed as a class action. If it does, a trial of the claims then decides the lawsuit for everyone in the class. The Court in these lawsuits certified a separate class of people who made Medicare Part B co-payments for drugs manufactured by each Defendant.

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## **3. What do the Plaintiffs claim?**

The Plaintiffs claim that the Defendants violated various state consumer protection laws because they intentionally provided false and inflated AWP's on certain types of outpatient drugs, including the Covered Drugs *[go to question #6 below for a list of the Covered Drugs]*. The lawsuits also claim that the Defendants intentionally reported inflated AWP's with the knowledge that Medicare Part B relies on reported AWP's to determine the prices they will reimburse doctors for those drugs. The lawsuits say that as a result of the inflated AWP's, people who made co-payments under Medicare Part B paid more than they should have. The lawsuits ask the Court to award money damages to those people.

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## **4. What do the Defendants say about the claims?**

The Defendants deny the factual allegations being made; contend that the lawsuits and damages are precluded under the law; contend that the alleged conduct, if proved, does not violate the consumer protection laws, and that many Class Members will not be able to establish elements of those laws, or prove they paid payments for the subject drugs.

In addition, Bristol-Myers Squibb points out that it does not report AWP's; it reports list prices at which a substantial percentage of its sales are made. The Johnson & Johnson Group says that Plaintiffs did not calculate Johnson & Johnson's drug prices correctly and, when these errors are corrected, it is obvious that the published prices for Johnson & Johnson drugs were not inflated. The Johnson & Johnson Group points out that it did not give doctors discounts on the drug Remicade, and the small discounts it gave to doctors on the drug Procrit were disclosed. The Johnson & Johnson Group says its drugs are less expensive than competing therapies, so Class Members who reimbursed for Johnson & Johnson's products saved money. The Schering Plough Group notes that the prices they report comport with standard industry practice.

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## **5. Has the Court decided who is right in these lawsuits?**

No. The Court hasn't decided who is right in these lawsuits yet. Much more must occur before the Court holds a trial, including notifying Class Members. By deciding now that these lawsuits can continue as a class action, the Court isn't saying who will win.

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## **6. Am I a Member of one or more of the Classes?**

You're a member of one or more of the Classes and part of these lawsuits if you are a resident of any state in the U.S. (except Alabama, Alaska, Georgia, Iowa, Kentucky, Louisiana, Mississippi, Montana or Virginia), and between January 1, 1991 and January 1, 2004, you paid (or are currently obligated to pay) a co-payment under Medicare Part B for any of the Covered Drugs [see *list below*] that were manufactured and marketed by the Defendants. The Classes and the drugs involved in each class are as follows:

Defendant Classes	Subject Drug(s)
AstraZeneca Class	Zoladex (goserelin acetate)
Bristol-Myers Squibb Class	Blenoxane (bleomycin sulfate) Cytoxan (cyclophosphamide) Etopophos (etoposide phosphate) Paraplatin (carboplatin) Rubex (doxorubicin hcl) Taxol (paclitaxel) VePesid (etoposide)
Johnson & Johnson Class	Remicade (infliximab) Procrit (epoetin alfa)

You are **not** a member of any of the Classes if you resided in Alabama, Alaska, Georgia, Iowa, Kentucky, Louisiana, Mississippi, Montana or Virginia at the time you made the Medicare Part B co-payment. The Court excluded persons residing in these states from the Classes because the consumer protection laws of those states don't allow class actions.

You are also **not** part of one or more of the Classes if:

(a) You were fully reimbursed for the co-payment you made (for example, your MediGap or other private insurer reimbursed you the full amount); **or**

(b) Your co-payment was a flat amount instead of a percentage of the total charge (for example, your MediGap or other private insurer paid for all of the co-payment except for a flat amount such as \$10 or \$20 that you had to pay). If your co-payment is a set dollar amount and does not differ with the price of the drug, your co-payment is a flat co-payment and not a percentage co-payment then you are not a member of one or more of the Classes.

## 7. How do I know if my co-payment was under Medicare Part B?

If you are 65 or older, or are younger than 65 but receive social security benefits because of a disability, you are entitled to Medicare benefits. Medicare Part A is the primary coverage for your health care costs when you are admitted as a patient in a hospital, and enrollment is generally automatic at age 65.

Medicare Part B helps to pay primarily for outpatient services such as care given in your doctor's office, outpatient hospital care, and physical therapy. Medicare Part B also has a limited drug benefit. For drugs that are covered under Part B, Medicare pays 80% of the drug cost, and you are responsible for paying the other 20% (which is your co-payment).

Generally, the drugs covered under Medicare Part B are ones that are administered by your doctor, such as cancer treatment drugs that are given through injections or an IV, but Part B also covers some drugs that are self-administered (ones that you take yourself). Those include some oral anti-cancer drugs in pill form, some pills prescribed to help with nausea or anemia in connection with chemotherapy and drugs provided with some durable medical equipment, such as inhalation drugs used with a nebulizer (a compressed air machine).

Like Part A, Medicare Part B coverage is also automatic, but you have the option to decline it. You pay a monthly premium for Medicare Part B coverage (which is typically deducted from your

social security check). You can tell if you're enrolled in Medicare Part B by looking at your Medicare insurance card. It will say if you are enrolled in Part B.

If you took one of the Covered Drugs [go to question #6 above for a list of the Covered Drugs] when you were an inpatient in the hospital, you did not make a co-payment under Medicare Part B. However, if a Covered Drug [go to question #6 above for a list of the Covered Drugs] was prescribed or administered by your doctor as a part of an outpatient treatment at a clinic, and you are enrolled in Medicare Part B, you may have been billed a co-payment of 20% of the drug cost if Medicare is your primary payer.

For the vast majority of people enrolled in Medicare, Medicare is the primary payer. Medicare is your secondary payer only if: (a) you or your spouse have continued to work after age 65 and have accepted the employer's health care insurance, or (b) you are a disabled person under 65 and have large group health plan coverage through your current job or the job of a family member. Unless either of these situations applies to you, your co-payment for a Covered Drug [go to question #6 above for a list of the Covered Drugs] would have been under Medicare Part B.

#### 8. How can I tell if the drug I took is included as a Covered Drug?

Most, but not all, of the Covered Drugs are ones that a doctor administers to you in the form of an injection – either through a shot, an IV, or an implant beneath the skin. A few are drugs that you take yourself, such as the pill forms of Cytoxan and VePesid – cancer therapy drugs. Most of the Covered Drugs are used for the treatment of various types of leukemia and cancers of the breast, ovaries, cervix, prostate, testes, lung, brain, and bone marrow. Other Covered Drugs are used to treat nausea or anemia resulting from cancer therapy, asthma, migraines, heart problems, leukemia, herpes, psychoses, or rheumatoid arthritis.

The Covered Drugs, by Defendant that manufactures them, are:

AstraZeneca  
AstraZeneca Pharmaceuticals L.P.

Drug Name	Treatment	Dosages
<b>Zoladex</b> (molecule name)	Prostate and breast cancer; Endometriosis	Implant: 3.6mg Injection (3 month): 10.8mg Kit for injection: 10.8mg syringe; 3.6mg syringe

Bristol-Myers Squibb Group  
Bristol-Myers Squibb, Oncology Therapeutics Network and Apothecon

Drug Name	Treatment	Dosages
<b>Blenoxane</b> (molecule name)	Cancer of cervix and uterus, head and neck, or testicle and penile cancer; Hodgkin's disease	<u>Powder for Injection</u> : 15 Unit Vial; 30 Unit Vial
<b>Cytosan</b> (molecule name)	Cancer (primarily breast, ovarian); Leukemia; Nephrotic syndrome (kidney disease)	<u>Injection</u> : 100mg; 200 mg; 500mg; 1gm; 1x2gm;  <u>Lyophilized Injection</u> : 100mg; 200mg; 500mg  <u>Powder for Injection</u> : 500mg; 1gm; 2gm

		Tablets: 25mg; 50 mg
<b>Etopophos (molecule name)</b>	Lung and testicular cancer; Cancer of the lymph glands; Leukemia	<u>Powder for Injection</u> : 100mg
<b>Paraplatin (molecule name)</b>	Ovarian cancer	<u>Powder for Injection</u> : 50mg; 150mg; 450mg
<b>Rubex (molecule name)</b>	Ovarian and breast cancer; Cancers of the bone, stomach, lung, bladder and thyroid; Leukemia	<u>Powder for Injection</u> : 10mg; 50mg; 100mg  <u>Powder for Injection (Under Immunex label)</u> : 10mg; 50mg; 100mg
<b>Taxol (molecule name)</b>	Ovarian and breast cancer; Lung cancer; Kaposi's sarcoma	<u>Injection</u> : 30mg; 30mg/5ml; 300mg/50ml  <u>Injection Solution</u> : 100mg; 100mg/16.7ml
<b>VePesid (molecule name)</b>	Testicular cancer; Small cell lung cancer	<u>Injection Solution</u> : 100mg; 150mg; 500mg; 1gm  <u>Capsules</u> : 500mg

Johnson & Johnson Group  
which includes Johnson & Johnson, Centocor, Ortho Biotech, McNeil-PPC and Janssen  
Pharmaceutical Products

Drug Name	Treatment	Dosages
<b>Remicade (molecule name)</b>	Rheumatoid arthritis; Crohn's disease; Ulcerative colitis	<u>Intravenous Injection</u> : 100 mg vial
<b>Procit (molecule name)</b>	Anemia (especially anemia due to chemotherapy or HIV)	<u>Solution for Injection</u> : 2,000 Unit/ml; 3,000 Unit/ml; 4,000 Unit/ml; 10,000 Unit/ml; 20,000 Unit/ml; 40,000 Unit/ml

If your doctor gave you or prescribed one or more of these drugs in the listed forms and dosages between January 1, 1991 and January 1, 2004, you might be a member of one or more of the Classes.

#### 9. Can I get out of these lawsuits and the Classes?

If you don't want to be in one or more of the Classes and you want to keep the right to sue the Defendants about the same claims on your own, you must take steps to get out of the Classes. This is called excluding yourself. By excluding yourself, you keep the right to file your own lawsuits or join other lawsuits against the Defendants about the claims in these lawsuits. You may exclude yourself from the litigation against one or more Defendants and remain in the litigation against the other Defendants. If you exclude yourself from the Classes, you will not be bound by the results of any of the trials against Defendants.

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**10. How do I exclude myself from the Classes?**

To exclude yourself from one or more of the Classes, fill out and mail the opt-out form in the detailed Notice or send a letter signed by you that includes all of the following:

- Your name, address, and telephone number;
- The name and number of the litigation: *In re: Pharmaceutical Industry Average Wholesale Price Litigation*, Docket No. 01-CV-12257-PBS;
- If you have hired your own lawyer, the name, address, and telephone number of your lawyer; *and*
- A statement that you want to be excluded from one or more (or all) of the Classes, specifying whether you wish to exclude yourself from the litigation against all Defendants or just some of the Defendants. If you wish to exclude yourself from the litigation against less than all Defendants, you must specify which Defendants by name.

Your exclusion letter must be mailed first class, **postmarked by February 19, 2007**, to:

AWP Litigation Administrator  
Complete Claim Solutions, LLC  
P.O. Box 24654  
West Palm Beach , FL 33416

Please remember that you can't exclude yourself by phone or by sending an email.

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**11. What happens if I exclude myself from these lawsuits?**

If you exclude yourself, you're no longer part of the Classes, and nothing that happens in these lawsuits affects you, but you can sue or be part of different lawsuits against the Defendants about the claims in this case. If you exclude yourself from one or more of the Classes, you will not get money or benefits from the Classes if any are obtained from a settlement or trial of the lawsuits involving the remaining Defendants.

If you do not exclude yourself, you will be bound by the results in these lawsuits. Thus, if Defendants win, your claim will be extinguished. Defendants claim that the persons and entities representing your interests do not have a valid claim, and if that is correct, your claim will be extinguished unless you exclude yourself.

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**12. Can I appear or speak in these lawsuits?**

As long as you don't exclude yourself, you can (but do not have to) participate and speak for yourself in these lawsuits through your own lawyer. This is called making an appearance. Remember that you may have to pay for the lawyer yourself. If you appear in these lawsuits, you are still a member of the Classes and can share in any benefits the Classes might receive as a result of settlement or a trial.

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**13. How do I appear in these lawsuits?**

If you want your own lawyer instead of Class Counsel to participate or speak for you in these lawsuits, your lawyer must give the Court a paper that is called a Notice of Appearance. The Notice of Appearance should include the name and number of the litigation, and state that you wish to enter an appearance in these lawsuits.

The Notice of Appearance must be filed with the Court at the following address:

Clerk of Court  
John Joseph Moakley U.S. Courthouse  
1 Courthouse Way, Suite 2300  
Boston, Massachusetts 02210

The Notice of Appearance must be filed using the following Civil Action Number:

01-CV-12257-PBS

Your Notice of Appearance should be filed with the Court before the beginning of the series of trials of each Defendants in these lawsuits. The first trial is currently scheduled to start on March 5, 2007.

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**14. What happens if I don't do anything at all?**

If you do nothing, you stay in the Classes and will be represented by Class Counsel. You will share in any benefits from these lawsuits if the Classes win at trial or settle the lawsuits, and you will be bound if the Class Representative loses. By staying in the Classes, all of the Court's orders in these lawsuits will apply to you, including any decision on the trial. Please remember that staying in the Classes means you can't sue the Defendants yourself about any of the claims in these lawsuits.

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**15. Do I have a lawyer in these lawsuits?**

Yes. The Court has appointed the following law firms to represent you and other Class Members:

**Hagens Berman Sobol  
Shapiro LLP**  
[www.hagens-berman.com](http://www.hagens-berman.com)  
1301 Fifth Avenue, Suite  
2900  
Seattle, WA 98101

*and*

One Main Street, 4th Floor  
Cambridge, MA 02142

**Spector Roseman & Kodroff,  
PC**  
[www.srk-law.com](http://www.srk-law.com)  
1818 Market Street, Suite 2500  
Philadelphia, PA 19103

**Wexler Toriseva Wallace LLP**  
[www.wtwlaw.us](http://www.wtwlaw.us)  
One North LaSalle St., Suite  
2000  
Chicago, IL 60602

**Mark H. Edelson**  
Edelson & Associates LLC  
45 West Court Street  
Doylestown, PA 18901

**Kline & Specter, PC**  
[www.klinespecter.com](http://www.klinespecter.com)  
The Nineteenth Floor  
1525 Locust Street  
Philadelphia, PA 19102

These lawyers are called Class Counsel. You won't be charged personally for these lawyers, but they will ask the Court to award them a fee to be paid out of any recovery. More information about Class Counsel and their experience is available at the lawyers' Web sites.

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**16. Can you elaborate on who pays the lawyers and how much will they be paid?**

If Class Counsel obtains money or benefits for the Class through a settlement or a successful trial, they will ask the Court for payment of attorneys' fees and expenses out of the total amount of money and benefits obtained. The Court must approve the amount of attorneys' fees and expenses. If Class Counsel doesn't obtain any money or benefits for the Class, they won't receive or ask to receive any attorneys' fees or reimbursement of expenses.

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**17. Should I get my own lawyer?**

You don't need to hire your own lawyer, but if you want your own lawyer to speak for you or appear in Court, you must file a Notice of Appearance (*see Question 13 on how to submit a Notice of Appearance*). If you hire a lawyer to appear for you in these lawsuits, you will have to make your own arrangement for that lawyer's compensation.

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**18. Are more details and information available?**

This Notice is just a summary of the lawsuits. More details are in the Complaint filed by Class Counsel, and the other legal documents that have been filed with the Court in these lawsuits. You can look at and copy these legal documents at any time during regular office hours at the Office of the Clerk of Court, John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Suite 2300, Boston, Massachusetts 02210. Copies of some of the important documents, like the Complaint are also available on this web site at the links on the homepage.

In addition, if you have any questions about the lawsuits or this Notice, you may:

- Write to: AWP Litigation Administrator, Complete Claim Solutions, LLC, PO Box 24654, West Palm Beach, FL 33416; or
  - Call toll free 1-800-419-5391 (hearing impaired call 1-561-253-7732)
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**19. How will I be notified about the outcome of the trials?**

Information about the trials will be posted on this Web site as appropriate. You may also register on this Web site or by mail to get notification of the outcome of the litigation and other significant occurrences associated with this case. To register by mail send a letter to the AWP Litigation Administrator, Complete Claim Solutions, LLC, PO Box 24654, West Palm Beach, FL 33416. To register on this Web site, click on the "Register to Receive Email Updates" link on homepage.

# Average Wholesale Price Litigation

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## Register to Receive Email Updates

\* = Required fields

### Registration

First Name\*:

Last Name\*:

Title:

Organization:

Address Line 1:

Address Line 2:

City:

State/Province:

ZIP/Postal Code:

Country:

Enter your email address in both boxes below:

Email\*:

Confirm Email\*:

Cancel

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## Contact Information

AWP Litigation Administrator  
c/o Complete Claim Solutions, LLC  
PO Box 24654  
West Palm Beach, FL 33416

[AWPinfo@completeclaimsolutions.com](mailto:AWPinfo@completeclaimsolutions.com)

If you would like to speak with the Administrator's  
Office, please call toll-free:  
1-800-419-5391

# Average Wholesale Price Litigation

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**(Spanish) Welcome to the AWP Class Action Website  
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[Consumer website text in spanish]

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